

The new museum's council, which includes many of America's most prominent men and women in business, entertainment, and academia, will meet early this year to begin the hard work of selecting a site for the museum, hiring a director, building a collection, and raising funds. From blood banking to the modern subway, from jazz to social justice, the contributions of African Americans have shaped and molded and influenced our national culture and our national character.

The African-American experience is one of the most important threads in the American tapestry. The National Museum of African American History and Culture promises to become one of our Nation's most prominent cultural landmarks.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that the time in relation to the statement I will give which pertains to the class action bill be charged to the class action bill. There is no time agreement, but rather than take up my leader time or morning business, that the time be charged against the time on the bill.

The PRESIDENT pro tempore. Very well. Without objection, it is so ordered.

CLASS ACTION FAIRNESS ACT OF 2005

Mr. REID. Mr. President, for the past 2 days the Senate has been debating the so-called Class Action Fairness Act of 2005. I want to spend a few minutes today talking about this bill.

Despite its title, the bill is not about fairness at all, in my opinion. It is about depriving consumers of access to the courts and letting corporate wrongdoers off the hook.

People ask, what are these cases all about? These cases are about things dealing with fairness. Class actions fall in a number of different categories: environmental pollution, insurance practices, wage-and-hour employment disputes, consumer fraud, dangerous drugs, products that kill, and consumer protection. In those categories we have had, in recent years, some very successful pieces of litigation that have made our society a better place. However if this bill had been law, those cases would have been removed to federal court where they would have likely been dismissed. It is important for states to continue to have the opportunity to protect their own citizens in their own courts.

For example, there was a case in New Hampshire dealing with environmental pollution brought by the State of New Hampshire against 22 oil and chemical companies responsible for polluting the State's waterways with methyl tertiary butyl ether. We refer to that as MTBE. These companies were accused of violating state consumer protection and state environmental laws. They were negligent. They produced a defective product and created a public nuisance. In this case, New Hampshire is seeking compensation for the cost of the cleanup as well as penalties, both monetary and punitive in nature. Under this bill, because the named defendant is a citizen of another state, the State of New Hampshire would have to have their case heard in federal court instead of their own state court.

In Louisiana there was a pesticide there that had decimated the crawfish population. At one time, they were bringing in about 41 million pounds of crawfish. After this chemical was put into the waterways, that dropped to about 16 million pounds. Crawfish farmers were going broke. The plaintiffs were all from Louisiana and the harm occurred there. They filed a class action in state court, and a Louisiana state court judge recently granted final approval on a settlement agreement. This case is a clear example of a state court having the opportunity to interpret its own state law, yet if S. 5 were already enacted, it would have had to be removed to federal court.

There was a chemical plant leak that occurred in Richmond, California that caused a dangerous cloud to form over the town. Over 24,000 people sought medical treatment in the days immediately following the leak. The residents sued as a class, and the chemical company had to settle. While only California residents were harmed in California, under S. 5 this case would have been removed to federal court because the defendant is based in New Jersey.

Insurance practices: In one case, a Missouri state judge gave preliminary approval to a settlement agreement in a class action brought by Missouri plaintiffs, where a pharmacist diluted prescriptions for thousands of patients, including chemotherapy patients. Because the defendant is based in Iowa, although they sell policies in Missouri, the case could be removable to federal court under this bill.

Equitable Life Insurance was accused of misleading and cheating customers. This was a situation of the so-called vanishing premium cases in the 1980s. They sold policies when interest rates were high. They told customers as soon as the interest rates went down their premiums would be lower. That was not true. Class action lawsuits were filed in Pennsylvania and Arizona state courts, and Equitable settled the suits for \$20 million helping over 130,000 peo-

ple. However, because the insurance company was based in another state, under this legislation, the case would have been removed to federal court and these people harmed between 1984-1996 would still be waiting for justice.

Wage-and-hour employment disputes: In California, Wal-Mart employees have been denied pay for actual time worked. A California state judge certified a class action brought by California plaintiffs. The harm occurred in California, nonetheless, under the proposed legislation the case would be removed to federal court.

Consumer fraud: Roto-Rooter overcharged approximately two million customers \$10 each by adding charges to invoices violating state consumer protection laws. A class action was brought in Ohio where many of the class members live and where Roto-Rooter is based. Under S. 5, the case could be removed to federal court.

AOL, a Virginia based company, charged the credit card of their customers for services even after those customers had canceled their AOL subscriptions. The lead plaintiff in a class action case was a California citizen. AOL wanted to litigate the case in federal court under Virginia law. The California Court of Appeals held that the proper venue was in state court because Virginia law did not allow consumer class actions and the available remedies were more limited than under California law. This would undermine California's strong consumer protection laws. Under this bill we are considering, California would be powerless to protect their own public policy. What's fair about that?

In Florida a person sold funeral plots that didn't exist and desecrated some of the graves that were there. The issues raised in this case are state issues and the coffins desecrated were only those in Florida, yet under S. 5 the case would be removed to federal court because the parent company of the funeral home is based in another state.

Products that kill: Lead paint has poisoned thousands of children since 1993. Ford sold police cruisers that are prone to fire. This bill would seek to remove these cases to our already overburdened federal courts where they would experience extreme delays and possible dismissal.

Consumer protection: Cases against Monsanto, Jack-in-the-Box, and Nestle would all be removed to federal court possibly denying the members in the class the protection of their own state laws.

I believe it has been good for our country to have these lawsuits because if you didn't have these lawsuits and you had the law that is now sought in this legislation, these cases, most of them, wouldn't have been brought.

I am not saying there is no room to improve the rules governing class action lawsuits. There is. There are